

AMERICAN ARBITRATION ASSOCIATION

In the Matter of the Arbitration Between

**FRATERNAL ORDER OF POLICE,
LODGE #5**

AWARD

-- and --

**Case No. 01-14-0002-2041
Discharge of P/O Malaczewski**

CITY OF PHILADELPHIA

ARBITRATOR: James M. Darby, Esq.

APPEARANCES: For the FOP:
Stephen J. Holroyd, Esq.
Jennings Sigmond, P.C.

For the City:
Frank E. Wehr II, Esq.
Assistant City Solicitor

By letter dated June 1, 2015, from the American Arbitration Association (AAA), the undersigned was notified of his selection as Arbitrator of the instant dispute. The parties met with the undersigned on January 27, 2016, at the AAA offices in Philadelphia, Pennsylvania, where they were afforded a full opportunity to present testimony, exhibits and arguments in support of their positions. The parties presented oral arguments. After considering the parties' arguments the

Arbitrator determined that under the circumstances of this case this matter should be resolved pursuant to the following Award.

Consistent with the foregoing, the Arbitrator renders the following:

AWARD

The grievance is sustained in part and denied in part.

The Philadelphia Police Department shall reinstate Grievant subject to the following conditions:

1. Grievant's reinstatement is subject to his meeting the employment standards for Police Officers and for City of Philadelphia employees, including, but not limited to, fitness for duty as determined by the City's Medical Evaluation Unit, background checks, and City indebtedness verification. Grievant will not be reinstated should he fail to meet these and any other applicable employment standards for Police Officers and for City of Philadelphia Employees;
2. Grievant's discharge will be rescinded and reduced to a 30-day suspension. Grievant will be reinstated, as of the date of discharge, but will not receive back pay or any other emoluments of employment. The period from the end of the 30-day suspension until his return to active duty will be treated as an unpaid leave of absence;
3. Upon his reinstatement, Grievant will be assigned according to the Police Department's operational needs;
4. Grievant must successfully complete anger management counseling equivalent or substantially similar to that ordered by the Buck's County Court within six (6) months;

5. If, within two (2) years of the date of the issuance of this award, Grievant is charged with any criminal offense related to, or arising from, a domestic incident, Grievant will be dismissed from the Philadelphia Police Department and will not be able to challenge the discharge through the grievance procedure.

A handwritten signature in black ink, appearing to read 'James M. Darby', with a stylized flourish at the end.

JAMES M. DARBY
Arbitrator
Lancaster, Pennsylvania
February 23, 2016